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OFFICE OF PETITIONS

In re Patent No. 6,887,606	:	
De Vaal et al.	:	
Issue Date: May 3, 2005	:	DECISION ON REQUEST FOR
Application No. 09/916,240	:	RECONSIDERATION OF
Filed: July 25, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 130109.409	:	and
	:	NOTICE OF INTENT TO
	:	ISSUE CERTIFICATE OF
	:	CORRECTION
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed July 1, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred thirteen (113) to two hundred thirty-three (233) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-three (233) days.

On May 3, 2005, the above-identified application matured into U.S. Patent No. 6,887,606. The instant request for reconsideration filed July 1, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 113 days. Patentees dispute the reduction of 120 days associated with the filing of a "Remarks After Allowance," filed September 22, 2004. Patentees state that this paper did not amend the application, and thus, no reduction under 1.704(c)(10) was warranted.

By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10). See *Clarification of*

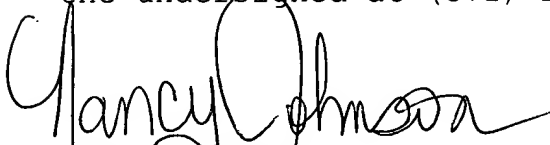
37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001); See also MPEP 2731. A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of a "Remarks After Allowance" filed September 22, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 120 days.

In view thereof, the patent term adjustment indicated on the patent should have been two hundred thirty-three **(233)** days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred thirty-three (233) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction